

Senate Bill No. 50

CHAPTER 5

An act to amend Section 24357 of, and to add Section 17206 to, the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor March 10, 2005. Filed with
Secretary of State March 11, 2005.]

LEGISLATIVE COUNSEL'S DIGEST

SB 50, Campbell. Income and corporation taxes: contributions deduction: tsunami victims.

The Personal Income Tax Law and the Corporation Tax Law, in specified conformity to federal income tax laws, allow a deduction for charitable contributions, as defined, made during the taxable year.

This bill would, under both laws, allow any cash charitable contribution made in January 2005, for the relief of victims in areas affected by the December 26, 2004, Indian Ocean tsunami to be treated as if made during the 2004 taxable year.

This bill would take effect immediately as a tax levy.

The people of the State of California do enact as follows:

SECTION 1. Section 17206 is added to the Revenue and Taxation Code, to read:

17206. (a) For purposes of Section 17201, Section 170 of the Internal Revenue Code, as amended by Public Law 109-1, shall be applied to allow a taxpayer to elect to treat any contribution described in subdivision (b) made in January 2005, as if that contribution was made on December 31, 2004, and not in January 2005.

(b) A contribution is described in this subdivision if that contribution is a cash contribution made for the relief of victims in areas affected by the December 26, 2004, Indian Ocean tsunami for which a charitable contribution deduction is

allowable under Section 17201.

SEC. 2. Section 24357 of the Revenue and Taxation Code is amended to read:

24357. (a) There shall be allowed as a deduction any charitable contribution (as defined in Section 24359) payment of which is made within the taxable year. A charitable contribution shall be allowable as a deduction only if verified under regulations prescribed by the Franchise Tax Board.

(b) (1) In the case of a corporation reporting its income on the accrual basis, the corporation may elect to treat the contribution as paid during that taxable year if both of the following occur:

(A) The board of directors authorizes a charitable contribution during the taxable year.

(B) Payment of the contribution is made after the close of that taxable year and on or before the 15th day of the third month following the close of the taxable year.

(2) The election allowed by paragraph (1) may be made only at the time of the filing of the return for the taxable year, and shall be signified in the manner as the Franchise Tax Board shall by regulations prescribe.

(c) For purposes of this section, payment of a charitable contribution that consists of a future interest in tangible personal property shall be treated as made only when all intervening interests in, and rights to the actual possession or enjoyment of, the property have expired or are held by persons other than the taxpayer or those standing in a relationship to the taxpayer described in Section 24428. For purposes of the preceding sentence, a fixture which is intended to be severed from the real property shall be treated as tangible personal property.

(d) No deduction shall be allowed under this section for traveling expenses (including amounts expended for meals and lodging) while away from home, whether paid directly or by reimbursement, unless there is no significant element of personal pleasure, recreation, or vacation in that travel.

(e) (1) Section 170(f)(8) of the Internal Revenue Code, relating to substantiation requirement for certain contributions, shall apply, except as otherwise provided.

(2) No deduction shall be denied under Section 170(f)(8) of the Internal Revenue Code, relating to substantiation requirement for certain contributions, upon a showing that the requirements in Section 170(f)(8) of the Internal Revenue Code have been met with respect to that contribution for federal purposes.

(f) Section 170(f)(9) of the Internal Revenue Code, relating to the denial of the deduction for lobbying activities shall apply, except as otherwise provided.

(g) (1) Notwithstanding any other provision of law to the contrary, for purposes of this section and Section 24341, Section 170 of the Internal Revenue Code, as amended by Public Law 109-1, shall be applied to allow a taxpayer to elect to treat any contribution described in paragraph (2) made in January 2005, as if that contribution was made on December 31, 2004, and not in January 2005.

(2) A contribution is described in this paragraph if that contribution is a cash contribution made for the relief of victims in areas affected by the December 26, 2004, Indian Ocean tsunami for which a charitable contribution deduction is allowable under this section.

SEC. 3. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

O